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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,262	01/23/2002	Peter L. Sirota	41076.P002	8572

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EXAMINER	
JONES III, CLYDE H	

ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/056,262	SIROTA ET AL.	
	Examiner	Art Unit	
	Clyde H. Jones III	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-55 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-55 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 23 January 2002 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 3/7/2002.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 7-9, 11-19, 21-25, 31-33, 39-43, 4552, 54 and 55 are rejected under 35 U.S.C. 102(e) as being anticipated by Blasko et al. (US 2002/0083435 A1).

Regarding claims 1 and 25, Blasko teaches an apparatus (subscription system 20 – fig. 1) (and corresponding method) comprising:

storage medium (RAM) having stored therein programming instructions (par. 23, lines 4-12; par. 34-35; par. 39, lines 7-15; par. 49, lines 1-3; par. 31, lines 4-7) designed to enable the apparatus to

cache (store in advance) a plurality of advertisements of various time lengths (par. 28; par. 30;, lines 11-12; par. 35, line 5-par. 36, line5), and synchronously render one or more of the cached advertisements during an advertisement time slot (avail) of a streaming program (par. 51, lines 1-6; par. 53), to effectively substitute (replace) for advertisements, if any, included in said streaming program for rendering during the advertisement time slot (par. 26-par. 27); and

at least one processor coupled with the storage medium to execute the programming instructions (par. 34-35).

Regarding claims 7, 31 and 50, Blasko teaches said programming instructions are designed to enable the apparatus to include as part of the performance of said caching of a plurality of advertisements of various time lengths (par. 28, lines 1-7; par. 31, lines 11-13), adaptive retrieval of the advertisements in a manner that is consistent with a quality objective for receiving and rendering the streaming program on the client system (par. 29, lines 4-15; par. 33, lines 10-14; par. 46; par. 57; par. 60).

Regarding claims 8, 32 and 51, Blasko teaches the programming instructions are designed to enable the apparatus to include as part of the performance of said adaptive retrieving, monitoring of one or more performance metrics (current, frequency, color detection levels) that are indicative of whether the client system is meeting the performance objective for receiving and rendering (the TV is turned on) the streaming program (par. 41-46).

Regarding claims 9, 33 and 52, Blasko teaches said programming instructions are designed to enable the apparatus to include as part of the performance of the adaptive retrieving, adjustment of at least one of an operational pulse rate (synchronizing signal frequency) (par. 44, par. 46; in which the subscriber system adjust/synchronizes the phase of the receiver to accurately process received signals).

Regarding claims 11 and 35, Blasko teaches the programming instructions are further designed to enable the apparatus to receive a notification of the advertisement

time slot (avails) (par. 26; par. 27; par. 31, line 11-par. 33, line 5), including the advertisement time slot's time length (par. 35, lines 5-6; par. 36, lines 8-25; 310 – fig. 2; par. 40, lines 8-14; par. 49; par. 51, lines 1-5).

Regarding claims 12 and 36, Blasko teaches the programming instructions are designed to enable the apparatus to include as part of the performance of the receiving of a notification of the advertisement time slot, by having an advertisement module (304 – fig. 2) receives the notification from a player of the apparatus receiving and rendering the streaming program (par. 40, lines 4-7 & 12-14; or par. 58-59; par. 23, lines 4-12; par. 25, lines 11-13).

Regarding claims 13 and 37, Blasko teaches the programming instructions are designed to enable the apparatus to include as part of the performance of the receiving of a notification of the advertisement time slot, by having an advertisement module (304/310 – fig. 2) receive the notification from an operating system service (function module 302), of the apparatus receiving a streaming of event notifications (avail info) companion to the streaming program on behalf of a player (306/24) of the streaming program of the apparatus (par. 40; par. 51, lines 1-5; par. 52-par. 53; par. 23, lines 4-12).

Regarding claims 14, 23, 24, 38, 47, and 48, Blasko teaches the programming instructions are designed to enable the apparatus to include as part of the performance

of the receiving of a notification of the advertisement time slot, receipt of the notification from a broadcaster (headend/service provider) of the streaming program (par. 27; par. 31, lines 4-6; par. 49; par. 51, lines 1-5; par. 23, lines 12-18).

Regarding claims 15, 16, 39, and 40, Blasko teaches the programming instructions are designed to enable the apparatus to include as part of the performance of the synchronous rendering of one or more of the cached advertisements during the advertisement time slot, selection of one or more of the cached advertisements with their combined total time length at least equals to the advertisement time slot's time length (par. 26; par. 48; par. 51, lines 1-5; par. 52-53).

Regarding claims 17, 41 and 54, Blasko teaches the programming instructions are further designed to enable the apparatus to notify a publisher of an advertisement (central office/advertiser) when rendering commences (an ad is played) on the client system for the advertisement (par. 37).

Regarding claims 18, 42 and 55, Blasko teaches the programming instructions are designed to enable the apparatus to notify a publisher of an advertisement when rendering ceases (after an ad is played) on the client system for the advertisement (par. 37; par. 54).

Regarding claims 19 and 43, Blasko teaches the streaming program is a streaming audio program, and the advertisements are audio advertisements (par. 59; par. 23, lines 5-9; par. 25).

Regarding claims 21 and 45, Blasko teaches the streaming program is a streaming multi-media program (web page, electronic program guide, etc.) (par. 23, lines 12-18; par. 25, lines 4-11; par. 38, lines 7-9; par. 59), and the advertisements (included in the streaming program) are multi-media (web page, EPG, etc.) advertisements (par. 58, lines 5-9; par. 25, lines 8-11).

Regarding claims 22 and 46, Blasko teaches the streaming program is a streaming television program, and the advertisements are television advertisements (par. 23, lines 5-18; par. 25, line 3; par, 27; par. 58, line 9).

Regarding claim 49, Blasko teaches a system comprising:

first server providing at least one of advertisements of various time lengths, and locations of advertisements of various time lengths to a client (par. 31, lines 11-13; par. 36, lines 6-8);

second server (headend/service provider) providing a streaming program to the client, the streaming program having one or more advertisement time slots (par. 23, lines 12-18; par. 26-27; par. 38, lines 5-10); and

the client (subscriber system) coupled with the first and second servers to cache (store in advance) the plurality of advertisements of various time lengths (par. 28; par. 30;, lines 11-12; par. 35, line 5-par. 36, line5), and synchronously render one or more of the cached advertisements during an advertisement time slot (avail) of a streaming program (par. 51, lines 1-6; par. 53), to effectively substitute (replace) for advertisements, if any, included in said streaming program for rendering during the advertisement time slot (par. 26-par. 27).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 2-6, 26-30, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blasko et al. (US 2002/0083435 A1) in view of Rand (US 2003/0226142 A1).

Regarding claims 2, 26, and 53, Blasko teaches ad insertion information sent to the head end/advertiser (par. 54; par. 37), ads received by the user based on a user profile (determination of the person type) (par. 56, lines 5-15; 322 – fig. 2), targeting ads towards a certain audience (par. 33, lines 10-14).

However, Blasko fails to disclose provision of advertisement publisher with a profile of the user of client system.

In an analogous art, Rand teaches provision of advertisement publisher with a profile of the user of client system for selective insertion of media data into a data stream (par. 11; par. 20, lines 195; par. 22).

It would have been obvious to one of ordinary skill in the art to modify the system of Blasko to include the further limitation provision of advertisement publisher with a profile of the user of client system for selective insertion of media data into a data stream as taught by Rand for the added advantage of optimally customizing a subscribers data stream by analyzing content preferences and demographic profiles (Rand - par. 21, lines 11-14).

Regarding claims 3 and 27, Blasko in view of Rand teach the profile of the user of client system comprises selected ones of a plurality of demographic and interest (preference) characteristics of the user (par. 11; par. 20, lines 195; par. 22).

Regarding claims 4 and 28, Blasko in view of Rand teach the profile of the user of client system comprises geographic (region) information of the user (par. 11; par. 20, lines 5-7; par. 22, lines 6-8).

Regarding claims 5 and 29, Blasko in view of Rand teach the programming instructions are designed to enable the apparatus to receive the advertisements of various time lengths from the advertisement publisher (par. 31, lines 11-13; par. 36, lines 6-8).

Regarding claims 6 and 30, Blasko in view of Rand teach the programming instructions are designed to enable the apparatus to receive locations (advertisement resource locators) of the advertisements of various time lengths from the advertisement publisher, and retrieve the advertisements of various time lengths from the locations (par. 31, lines 7-13; par. 48).

4. Claims 10, 20, 34, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blasko et al. (US 2002/0083435 A1) in view of Brown (US 6,950,623 B2).

Regarding claims 10 and 34, Blasko teaches receiving the duration of the advertisements cached in advance (par. 49).

However, Blasko fails to disclose one of 30 seconds advertisements and 60 seconds advertisements.

In an analogous art Brown teaches one of 30 seconds advertisements and 60 seconds advertisements for the purpose of replacing specified advertisements with

equal length ads (fig. 6B - lines 5-10; fig. 10; col. 4, lines 40-47; col. 6, lines 50-55; col. 9, lines 16-36; col. 9, lines 50-51).

It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the system of Blasko to include the limitation one of 30 seconds advertisements and 60 seconds advertisements for the purpose of replacing specified advertisements with equal length ads as taught by Brown for the advantage of optimizing successful playout of inserted ads by making sure they are not longer than the identified ad segment (Brown- col. 9, lines 26-27; Blasko – col. 3, lines 10-14 & par. 37, lines 6-10).

Regarding claims 20 and 44, Blasko teaches audio advertisements (par. 59; par. 23, lines 5-9; par. 25), however fails to specifically disclose a streaming radio program.

In an analogous art Brown teaches a streaming radio program for inserting ads into it (col. 4, lines, 33-47; col. 3, lines 52-56; col. 3, lines 66-col. 4, line 4).

It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the system of Blasko to include the limitation a streaming radio program as taught by Brown for the advantage of increasing advertisement opportunities and thus revenue for advertisers.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clyde H. Jones III whose telephone number is 571-272-5946. The examiner can normally be reached on 9-5:30 p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Note to Applicant

Art Units 2611, 2614 and 2617 have changed to 2623. Please make all future correspondence indicate the new designation 2623.

CJ

CHRISTOPHER GRANT
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